

# Copyright Regulation

## 1170-10 | Copyright Regulation

Date Approved:

Date Amended: March 09 1993

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The Board of School Trustees recognizes the existence of the Copyright Act (1988) designed to protect the rights of authors and producers of creative works.

The Board requires its employees to respect copyright provisions as they pertain to all aspects of modern publishing, media and computer technology and the Board will not accept financial responsibility for any violations that are knowingly undertaken by its employees.

Employees of School District No. 52 need to be instructed so that they do not violate the Copyright Act (1988) when performing their duties. Accordingly, Administrative Officers and supervisors should ensure their staff is familiar with the Regulations and guidelines.

The Board requires teachers, when there are opportunities for copyright violations by students, to instruct students what the Copyright Act means and to attempt to supervise students in a manner that a copyright violation does not occur.

The Superintendent shall create guidelines to instruct employees on what is or is not a violation of the Copyright Act.

Copies of the guidelines shall be readily available to all employees.

Applicable portions of the Copyright Act and guidelines will be attached to V.C.R.'s, computers, photocopiers and other appropriate duplicating equipment.

## **COPYRIGHT GUIDELINES**

### **A. Computer Software**

1. Unauthorized duplication of computer software is illegal and constitutes infringement of copyright according to both judicial precedent and the Copyright Act.
2. It is not legal for a teacher to make class sets of software without first obtaining authorization (e.g., site licences) from the copyright owner.
3. Owners of computer software may make one back-up copy and/or modify legally obtained computer software for their personal use.
4. Administrators are advised to investigate the overall computer software situation at their schools and formulate policies for dealing with unlawful software duplication. For example, if classroom sets of pirated software are currently in use, steps should be taken to destroy such copies, and to obtain the software legally. Teachers and students should also be advised that pirated software is illegal and subject to penalty.

## **B. Audio Visual Materials**

1. It is illegal to tape TV programs "*off air*" on a VCR, for classroom use without an appropriate licence.
2. Transferring 16 mm film to video for classroom use constitutes an infringement of copyright without the appropriate licence. (The appropriate licence will be provincially negotiated permission or individually acquired permission - i.e., individual has legal permission.)
3. Classroom screenings of video cassettes rented or purchased from video outlets "*for home use only*" constitutes a "*public performance*" and therefore are in violation of copyright.
4. School Administrators are requested to circulate school regulations regarding audio visual taping restrictions, as well as providing teachers with information regarding materials that are licensed for school use (e.g., materials found in the Learning Resources Branch repertoire have been licensed for school use).

## **C. Public Performance**

1. The right to perform is among the rights conferred to owners of copyright works by the Copyright Act. A performance is considered to be of a "*public*" nature simply if it can be "*heard*" by members of the public. School performances of both dramatic and musical works are protected by copyright.
2. A dramatic work is only infringed if an unauthorized "*material and substantial*" portion of the production is performed in public. The unauthorized reading or recitation in public by one person of any reasonable extract from any "*published work*" is not prohibited by the Act.
3. Copyright of a dramatic work will be infringed if there is an unauthorized reproduction of a substantial portion of the work, incidents or characters in "*the same order and arrangement*" as provided for in the original production.
4. A copyright infringement is avoided where the person permitting an unauthorized performance subject to copyright was not aware and had no reasonable grounds for suspecting that the performance would be an infringement of copyright. This fair dealing defence could be employed, for example, in the case of a teacher who, in good faith, was not aware of the copyright laws governing a public performance and staged dramatic work without the permission of a copyright holder.
5. The unauthorized reproduction (i.e., photocopy) or distribution of multiple copies of a substantial portion of a dramatic work constitutes copyright infringement.
6. Copyright of a musical work is infringed in most circumstances by staging a public performance of a substantial part of the work, without authorization. Schools are exempted from the general copyright rules as a result of Section 17(3) of the Copyright Act which states that no school shall be held liable to pay any compensation to the owner of any musical work or to any person claiming through him by reason of the public performance of any musical work in furtherance of an educational purpose.
7. The term "*musical*" is not defined by the Copyright Act. Schools should therefore verify that the work to be performed is in fact a "*musical*", before a public performance is staged.
8. Photocopying and distributing a substantial portion of a musical work to students for a public performance, without authorization constitutes copyright infringement.

## **D. Photocopying/Blackboard Copying**

1. Students, teachers, administrators, etc. are legally entitled to make photocopies of an insubstantial portion of copyrighted materials for purposes of personal research, study, review or criticism.
2. Teachers are not prohibited from reciting, reading, or copying onto the classroom board or overhead projector a brief or "*insubstantial*" passage of a copyrighted work without authorization. Common sense should be exercised in determining what constitutes a "*substantial*" portion of a work being copied.
3. Students are not prohibited from copying an unauthorized brief or "*insubstantial*" passage of a

- copyrighted work for a school purpose (e.g., a school assignment).
4. Reproducing and distributing multiple photocopies of an unauthorized, insubstantial passage of a copyrighted work for a school purpose (e.g., an examination), is not expressly prohibited. Educators should bear in mind that the use of unauthorized, insubstantial portions of copyrighted materials is limited to very brief passages. The unauthorized use of copyrighted material as a means to avoid the purchase of such materials, however, clearly constitutes copyright infringement not falling within the fair dealing defence.
  5. If multiple copies of a substantial portion of a copyrighted work are necessary for classroom use, permission should be requested from the copyright holder (usually the publisher listed in the front of the book or article). Such requests will generally be met with a positive reply, and may require payment of a copyright fee (which varies depending upon the work in question).
  6. Plays, music, choreographic works, art work, etc. are subject to the same copyright rules and prohibitions as other materials.
  7. Original copies of maps and charts can be displayed without infringing copyright.
  8. Short passages from copyrighted works, not themselves published for the use of schools, may be published in a collection of materials intended for a school purpose. Both the title of the collection and any advertisements issued by the publisher must indicate the educational purpose for which the materials are intended. Not more than two such passages from works by the same author may be published by the same publisher without authorization within a five year period. The sources of such passages must also be acknowledged.

**Note:** If in doubt as to whether a passage is substantial or insubstantial, then do not copy.

**These statements will appear on all V.C.R.'s:**

*School District No. 52 Regulation prohibits Copyright Law infringement. It is illegal to tape TV programs "off air" on a VCR, for classroom use without an appropriate licence.*

*Classroom screenings of video cassettes rented or purchased from video outlets "for home use only" constitutes a "public performance" and therefore are in violation of copyright.*

**These statements will appear on all photocopiers:**

*School District No. 52 Regulation prohibits Copyright Law infringement. Students, teachers, administrators, etc. are legally entitled to make photocopies of an insubstantial portion of copyrighted materials for purposes of personal research, study, review or criticism.*

*Reproducing and distributing photocopies of an unauthorized, insubstantial passage of a copyrighted work for a school purpose (e.g., an examination or a school assignment), is not expressly prohibited. Educators should bear in mind that the use of unauthorized, insubstantial portions of copyrighted materials is limited to very brief passages. The unauthorized use of copyrighted material as a means to avoid the purchase of such materials, however, clearly constitutes copyright infringement not falling within the fair dealing defence.*